REMARKS

Claims 1-22 are presently pending in the application. Claims 9 and 20 have been amended to correct minor typographical errors. No new matter has been added and support for the amendments to the claims can be found in the specification and drawings. In view of the above amendments and arguments presented hereinbelow, Applicant respectfully submits that these claims are now in condition for allowance.

Claim Rejections -- 35 U.S.C. § 102(e)

Claims 1-6, 9-17 and 20-22 stand rejected under Section 102 as being anticipated by Yoneda U.S. Patent No. 6,002,832 ("Yoneda"). Applicant respectfully traverses this rejection and submits that Yoneda fails to disclose or suggest the claimed invention.

In accordance with an aspect of the invention as set forth in Claim 1, there is provided a method for transmitting a performance via a network, comprising:

> receiving performance information including *one or more mixing commands via the network*;

> *composing a performance by mixing stored information based on the one or more mixing commands*; and

> transmitting one or more portions of the performance.

As described in the specification:

> Several examples of specific operations performed using the above-described network 100, performance transmitter 200, performance reproduction devices 302 and 304, and storage devices 402 and 404 are described below. In a first example, the performance transmitter 200 is a radio station, the performance reproduction device 302 is an enhanced radio, and the storage device 402 has been pre-loaded with a library of songs. A radio announcer speaks into a microphone, which is included in the performance input device 220 of Fig. 2, and says, for example, "Here are the three most-requested songs of this week." The announcer then pushes one or more buttons, for example, on the command input device 230, and a command signal sequence including a Play 1 command appending the announcer's real-time performance is generated and transmitted to the network 100.

> The announcer's voice information announcing "Here are the three most-requested songs of this week" is output through the performance output device 320, corresponding in this case to a radio speaker, based on the Play 1 command. *The remaining command signal sequence is*

executed by retrieving the three songs from the storage device 402 and outputting them to the radio speaker in the order indicated by the command signal sequence.

The radio station may transmit addition program information any time before the reproduction of the songs is completed. For example, the radio announcer may announce, "We will be back with more music after these messages from our sponsors" and then issue commands for reproduction of pre-recorded commercials or the like. *The corresponding commands are transmitted to the performance reproduction device 302 prior to the actual performance output time.* Thus, the radio station is provided great flexibility in performance production because the time of performance production is not tightly coupled to the time of performance output.

In a second example, the performance transmitter 200 may be a television station, and the performance reproduction device 302 may be an enhanced television set. The user watches a new episode of a weekly program. While the user is watching the new episode, the new episode is simultaneously recorded to the storage device 402. Months later, it is decided to re-run the episode. *However, rather than re-transmitting the entire episode, the television station transmits one or more command signals to the enhanced television set, instructing the enhanced television set to retrieve and output the episode from the storage device 402.*

In a third example, the performance transmitter 200 is a radio station and the performance reproduction device 302 is an enhanced car radio. At 1:00 AM, the user is asleep at home in Washington, D.C., and is not listening to the car radio. However, the radio station receives world news information from the British Broadcasting Company in Great Britain, and automatically stores this information to the storage device 402, along with one or more commands. Later, at 7:30 AM, while driving to work, the user listens to the car radio. *Based on the previously transmitted one or more commands, the car radio retrieves and reproduces the information that was stored earlier that morning beginning at 1:00 AM. In this manner, information may be transferred to the car radio at low network usage times and any time prior to the generation of a performance.* Furthermore, from this example it is seen that a real-time radio announcer is not required. Specification at page 20, line 17- page 21, line 30.

The foregoing describes how performance information *including one or more mixing commands is received from the network.* The mixing commands may be, for example, the command signal sequence to retrieve a plurality of songs from the storage device in the first example discussed above. Thus, the three

songs "played" on the radio station are actually stored on a storage device 402 and retrieved from the storage device 402. In the second example, a new episode of a television program is recorded to the storage device 402 such that when the program is re-run at a later time, it is retrieved from the storage device in response to command signals received over the network from the television station. In the third example, a radio program is stored along with one or more commands such that it can be replayed from the storage device 402 at a subsequent time, thus enabling the information to be downloaded to the storage device 402 from the network during periods of low network usage. This practice is neither disclosed nor suggested in Yoneda.

Yoneda relates to an apparatus for recording and reproducing data and more specifically, one that provides for reproducing a program from the beginning while continuing to record the same program from some point in the middle of the broadcast. This is referred to as a "time-shift" reproduction function. See Yoneda at Col. 7, lines 32-37. Although Yoneda discloses an apparatus for time shifting a broadcast, Yoneda does not teach or suggest the claimed steps of "*receiving performance information including one or more mixing commands via the network*" and "*composing a performance by mixing stored information based on the one or more mixing commands.*" In Yoneda, the user of the device merely elects to start a performance from the beginning while the performance is still being recorded. The Examiner's citation to column 2, lines 15-19 and 20-22 is misplaced. There is absolutely no teaching or suggestion of receiving mixing commands with the performance from a network as claimed. It is therefore submitted that claims 1-6, 9-17 and 20-22 are patentable over Yoneda.

Claim Rejections -- 35 U.S.C. § 103(a)

Claims 7, 8, 18 and 19 stand rejected under Section 103 as being unpatentable over Yoneda (above) in view of Raz U.S. Patent No. 6,292,827 ("Raz"). Applicant hereby reiterates the above argument distinguishing the claimed invention from Yoneda, and further submits that the addition of Raz fails to remedy the deficiencies in the Yoneda patent.
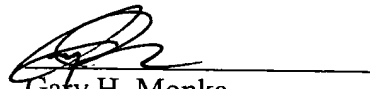
The Examiner cites Raz for the teaching of "receiving a request for transmission of the performance (column 1, lines 59-62)" with respect to claims 7 and 18. Office Action at page 6, ¶4. That section of Raz merely states that a "request broker system permits an exchange of information between the client terminals and the servers through communication[s, sic] paths between each of the terminals and the servers." Raz at Col. 1, lines 59-62. This is unrelated to the present invention. Moreover, there is no teaching or suggestion here of *"receiving performance information including one or more mixing commands via the network"* and *"composing a performance by mixing stored information based on the one or more mixing commands"* of which both elements are not suggested in the primary reference Yoneda. Accordingly, it is submitted that Raz fails to remedy the deficiencies in the Yoneda reference and that even if, assuming arguendo, these references would be properly combinable, such combination still would not reach the claimed invention. The same analysis applies to the rejection of claims 8 and 19.

In view of the foregoing, Applicant submits that claims 1-22 are in condition for allowance and allowance of these claims at an early date is solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to AT&T Corp. Account No. 01-2745. The Examiner is invited to contact the undersigned at (201) 224-7957 to discuss any matter concerning this application.

Respectfully submitted,
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